



General Assembly

January Session, 2011

Raised Bill No. 1208

LCO No. 4744

04744_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING FINANCIAL REPORTING BY CONDOMINIUM
AND COMMON INTEREST COMMUNITY ASSOCIATIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) Each executive board
2 of an association shall create separate monthly financial reports for (1)
3 any entity that is part of or associated with the association, including,
4 but not limited to, any taxing district associated with the association or
5 any marina or club in which only a portion of the unit owners own an
6 interest or have access or for which unit owners pay a separate fee to
7 maintain, or (2) any association operating account which is funded by
8 monthly assessments for common expenses, any reserve accounts of
9 the association and any one-time special assessments for capital
10 improvements.

11 (b) Such monthly financial report shall indicate beginning cash
12 balances, cash received, cash dispersed and ending cash balances for
13 the applicable month. Each entry for cash received and cash dispersed
14 shall be sufficiently detailed to identify the specific purpose of the
15 receipt or dispersal of cash. The executive board shall reconcile such
16 monthly financial reports with entries in bank statements of the

17 association, associated entities and accounts.

18 (c) (1) No entity described in subdivision (1) of subsection (a) of this
19 section may commingle funds with the association or any other such
20 entity. Each such entity shall maintain funds in a separate bank
21 account with a unique name and bank account number.

22 (2) The association shall maintain a separate bank account with a
23 unique name and bank account number for each account described in
24 subdivision (2) of subsection (a) of this section and shall not
25 commingle funds among such accounts.

26 (d) Reserve funds and assessment funds may not be used for
27 ongoing operating expenses unless such expenses (1) are approved as
28 part of a budget adopted pursuant to section 47-261e of the general
29 statutes, and (2) can be repaid within ninety days after the expenditure
30 of funds. In no event shall any assessment funds be used to finance or
31 pay for any budgeted items or for any new capital improvements other
32 than those for which the funds were originally approved by vote of the
33 unit owners.

34 (e) The executive board shall make such monthly financial reports
35 and copies of such separate bank account statements available to each
36 unit owner through an Internet web site maintained by the association
37 or a community association manager, as defined in section 20-450 of
38 the general statutes, or by Unites States mail, at the option of the unit
39 owner, not later than fifteen days after the end of each calendar month.

40 Sec. 2. Section 47-216 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective October 1, 2011*):

42 (a) Except as provided in section 47-217, sections 47-202, as
43 amended by this act, 47-204, 47-205, 47-206, 47-218, 47-221, 47-222, 47-
44 223, subsections (b), (d), (i) and (j) of section 47-236, sections 47-237, 47-
45 240 and 47-244, subsection (f) of section 47-245, sections 47-250, 47-251,
46 47-252, 47-253, 47-255, 47-257, 47-258, 47-260, section 1 of this act, 47-

261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, to the extent necessary in construing any of those sections, apply to all common interest communities created in this state before January 1, 1984; but those sections apply only with respect to events and circumstances occurring after January 1, 1984, and do not invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities.

(b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-225 apply to all common interest communities created in this state prior to January 1, 1984, but shall not invalidate existing provisions of the declarations, bylaws or surveys or plans of those common interest communities.

Sec. 3. Section 47-202 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, in section 1 of this act and in this chapter:

(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. (A) A person "controls" a declarant if the person (i) is a general partner, officer, director [] or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty per cent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than twenty per cent of the capital of the declarant. (B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director [] or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote [] or holds proxies representing [] more than twenty per cent of the voting

79 interest in the person, (iii) controls in any manner the election of a
80 majority of the directors of the person, or (iv) has contributed more
81 than twenty per cent of the capital of the person. Control does not exist
82 if the powers described in this subsection are held solely as security for
83 an obligation and are not exercised.

84 (2) "Allocated interests" means the following interests allocated to
85 each unit: (A) In a condominium, the undivided interest in the
86 common elements, the common expense liability [,] and votes in the
87 association; (B) in a cooperative, the common expense liability and the
88 ownership interest and votes in the association; and (C) in a planned
89 community, the common expense liability and votes in the association.

90 (3) "Assessment" means the sums attributable to a unit and due the
91 association pursuant to section 47-257.

92 (4) "Association" or "unit owners' association" means the unit
93 owners' association organized under section 47-243.

94 (5) "Bylaws" means the instruments, however denominated, that
95 contain the procedures for conduct of the affairs of the association
96 regardless of the form in which the association is organized, including
97 any amendments to the instruments.

98 (6) "Common elements" means (A) in the case of (i) a condominium
99 or cooperative, all portions of the common interest community other
100 than the units; and (ii) a planned community, any real property within
101 a planned community owned or leased by the association, other than a
102 unit, and (B) in all common interest communities, any other interests in
103 real property for the benefit of unit owners which are subject to the
104 declaration.

105 (7) "Common expenses" means expenditures made by, or financial
106 liabilities of, the association, together with any allocations to reserves.

107 (8) "Common expense liability" means the liability for common
108 expenses allocated to each unit pursuant to section 47-226.

109 (9) "Common interest community" means real property described in
110 a declaration with respect to which a person, by virtue of his
111 ownership of a unit, is obligated to pay for a share of (A) real property
112 taxes on, (B) insurance premiums on, (C) maintenance of, (D)
113 improvement of, or (E) services or other expenses related to, common
114 elements, other units or any other real property other than that unit
115 described in the declaration. "Common interest community" does not
116 include an arrangement described in section 47-219a or a covenant
117 described in section 47-219b. For purposes of this subdivision,
118 "ownership of a unit" includes holding a leasehold interest of forty
119 years or more in a unit, including renewal options. "Ownership of a
120 unit" does not include the interest which a resident holds in a mutual
121 housing association, as defined in subsection (b) of section 8-214f, by
122 virtue of either a state contract for financial assistance or an individual
123 occupancy agreement. An association of property owners funded
124 solely by voluntary payments from those owners is not a common
125 interest community.

126 (10) "Condominium" means a common interest community in which
127 portions of the real property are designated for separate ownership
128 and the remainder of the real property is designated for common
129 ownership solely by the owners of those portions. A common interest
130 community is not a condominium unless the undivided interests in the
131 common elements are vested in the unit owners.

132 (11) "Conversion building" means a building that at any time before
133 creation of the common interest community was occupied wholly or
134 partially by persons other than purchasers and persons who occupy
135 with the consent of purchasers.

136 (12) "Cooperative" means a common interest community in which
137 the real property is owned by an association, each of whose members
138 is entitled by virtue of his ownership interest in the association to
139 exclusive possession of a unit.

140 (13) "Dealer" means a person who owns either six or more units, or

141 fifty per cent or more of all the units, in a common interest community.

142 (14) "Declarant" means any person or group of persons acting in
143 concert who (A) as part of a common promotional plan, offers to
144 dispose of his interest in a unit not previously disposed of, or (B)
145 reserves or succeeds to any special declarant right.

146 (15) "Declaration" means any instruments, however denominated,
147 that create a common interest community, including any amendments
148 to those instruments.

149 (16) "Development rights" means any right or combination of rights
150 reserved by a declarant in the declaration to (A) add real property to a
151 common interest community; (B) create units, common elements [,] or
152 limited common elements within a common interest community; (C)
153 subdivide units or convert units into common elements; or (D)
154 withdraw real property from a common interest community.

155 (17) "Dispose" or "disposition" means a voluntary transfer to a
156 purchaser of any legal or equitable interest in a unit, but [the term]
157 does not include the transfer or release of a security interest.

158 (18) "Executive board" means the body, regardless of name,
159 designated in the declaration to act on behalf of the association.

160 (19) "Identifying number" means a symbol or address that identifies
161 only one unit in a common interest community.

162 (20) "Leasehold common interest community" means a common
163 interest community in which all or a portion of the real property is
164 subject to a lease the expiration or termination of which will terminate
165 the common interest community or reduce its size.

166 (21) "Limited common element" means a portion of the common
167 elements allocated by the declaration or by operation of subdivision (2)
168 or (4) of section 47-221 for the exclusive use of one or more but fewer
169 than all of the units.

170 (22) "Master association" means an organization described in section
171 47-239, whether or not it is also an association described in section 47-
172 243.

173 (23) "Offer" or "offering" means any advertisement, inducement,
174 solicitation or attempt to encourage any person to acquire any interest
175 in a unit, other than as security for an obligation. An advertisement in
176 a newspaper or other periodical of general circulation, or in any
177 broadcast medium to the general public, of a common interest
178 community not located in this state, is not an offering if the
179 advertisement states that an offering may be made only in compliance
180 with the law of the jurisdiction in which the common interest
181 community is located.

182 (24) "Person" means an individual, corporation, limited liability
183 company, business trust, estate, trust, partnership, association, joint
184 venture, public corporation, government, governmental subdivision or
185 agency, instrumentality or any other legal or commercial entity.

186 (25) "Planned community" means a common interest community
187 that is not a condominium or a cooperative. A condominium or
188 cooperative may be part of a planned community.

189 (26) "Proprietary lease" means an agreement with the association
190 pursuant to which a member is entitled to exclusive possession of a
191 unit in a cooperative.

192 (27) "Purchaser" means a person, other than a declarant or a dealer,
193 who by means of a voluntary transfer acquires a legal or equitable
194 interest in a unit other than (A) a leasehold interest, including renewal
195 options, of less than twenty years, or (B) as security for an obligation.

196 (28) "Real property" means any leasehold or other estate or interest
197 in, over [,] or under land, including structures, fixtures [,] and other
198 improvements and interests that by custom, usage [,] or law pass with
199 a conveyance of land though not described in the contract of sale or

200 instrument of conveyance. "Real property" includes parcels with or
201 without upper or lower boundaries, and spaces that may be filled with
202 air or water.

203 (29) "Record", used as a noun, means information that is inscribed
204 on a tangible medium or that is stored in an electronic or other
205 medium and is retrievable in perceivable form.

206 (30) "Residential purposes" means use for dwelling or recreational
207 purposes, or both.

208 (31) "Rule" means a policy, guideline, restriction, procedure or
209 regulation of an association, however denominated, which is adopted
210 by an association pursuant to section 47-261b which is not set forth in
211 the declaration or bylaws and which governs the conduct of persons or
212 the use or appearance of property.

213 (32) "Security interest" means an interest in real property or personal
214 property, created by contract or conveyance, which secures payment
215 or performance of an obligation. "Security interest" includes a lien
216 created by a mortgage, deed of trust, trust deed, security deed, contract
217 for deed, land sales contract, lease intended as security, assignment of
218 lease or rents intended as security, pledge of an ownership interest in
219 an association [,] and any other consensual lien or title retention
220 contract intended as security for an obligation.

221 (33) "Special declarant rights" means rights reserved for the benefit
222 of a declarant to (A) complete improvements indicated on surveys and
223 plans filed with the declaration or, in a cooperative, to complete
224 improvements described in the public offering statement pursuant to
225 subdivision (2) of subsection (a) of section 47-264; (B) exercise any
226 development right; (C) maintain sales offices, management offices,
227 signs advertising the common interest community [,] and models; (D)
228 use easements through the common elements for the purpose of
229 making improvements within the common interest community or
230 within real property which may be added to the common interest

231 community; (E) make the common interest community subject to a
232 master association; (F) merge or consolidate a common interest
233 community with another common interest community of the same
234 form of ownership; (G) appoint or remove any officer of the
235 association or any master association or any executive board member
236 during any period of declarant control; (H) control any construction,
237 design review or aesthetic standards committee or process; (I) attend
238 meetings of the unit owners and, except during an executive session,
239 the executive board; or (J) have access to the records of the association
240 to the same extent as a unit owner.

241 (34) "Time share" means a right to occupy a unit or any of several
242 units during five or more separated time periods over a period of at
243 least five years, including renewal options, whether or not coupled
244 with an estate or interest in a common interest community or a
245 specified portion thereof.

246 (35) "Unit" means a physical portion of the common interest
247 community designated for separate ownership or occupancy, the
248 boundaries of which are described pursuant to subdivision (5) of
249 subsection (a) of section 47-224. If a unit in a cooperative is owned by a
250 unit owner or is sold, conveyed, voluntarily or involuntarily
251 encumbered or otherwise transferred by a unit owner, the interest in
252 that unit which is owned, sold, conveyed, encumbered or otherwise
253 transferred is the right to possession of that unit under a proprietary
254 lease, coupled with the allocated interests of that unit, and the
255 association's interest in that unit is not thereby affected.

256 (36) "Unit owner" means a declarant or other person who owns a
257 unit, or a lessee of a unit in a leasehold common interest community
258 whose lease expires simultaneously with any lease the expiration or
259 termination of which will remove the unit from the common interest
260 community, but does not include a person having an interest in a unit
261 solely as security for an obligation. In a condominium or planned
262 community, the declarant is the owner of any unit created by the

263 declaration. In a cooperative, the declarant is treated as the owner of
264 any unit to which allocated interests have been allocated until that unit
265 has been conveyed to another person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	47-216
Sec. 3	<i>October 1, 2011</i>	47-202

Statement of Purpose:

To establish additional financial reporting requirements for executive boards of common interest communities, including, but not limited to, communities created prior to 1984.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]